

Remarks of the Honorable Henry A. Waxman
before the National Association of Letter Carriers
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INTRODUCTION

Good morning. It's a pleasure to be here with you today.

The way things are going in Washington lately, it's nice to get out of the city. Of course, going to Las Vegas might not exactly be going to the heartland of America--it's not exactly typical out here.

In fact, maybe it's closer to Washington than we think. Because, frankly, the way the Republican Congress is dealing with some pretty important public policy issues lately is gambling with people's lives and livelihood almost as recklessly as a lot of people are gambling in the traditional way out here.

At any rate, it is good to be here with you all--people who care about the issues facing the country, people who know that government has an important role to play, and people who have an appreciation of and commitment to public service.

The National Association of Letter Carriers is a vital and effective organization. And you've got good, strong leadership. Your president, Vincent Sombrotto, has done a yeoman's job of representing your interests in Congress.

I want to acknowledge him, as well as your executive vice president, Francis Connors, and your vice president, William Young.

And finally, let me also take this opportunity to acknowledge the hard work of George Gould and Bob Levy. They have provided invaluable insight and assistance to members as Congress attempts to grapple with a host of postal issues.

Of course, their job, and mine, would be a whole lot easier if we had some changes in the Congress.

We're dealing now with a Republican leadership that doesn't care about the role of the public sector, and that is more interested in cutting taxes for the wealthy than in shoring up Social Security and Medicare.

We're dealing with a Republican majority party that is more interested in cutting Federal spending on employee benefits than in keeping our commitments to public sector employees.

We're dealing with leaders like Newt Gingrich and Dick Armey who favor the interests of business over the interest of the public, who are more interested in the dollars and rides on private jets that they get from the tobacco companies than they are in stopping kids from smoking, who care more about what the insurance companies want than what the American public wants in health care.

We've got to change that. And I know you all are ready to help do it.

ISSUES TO BE DISCUSSED

You know, when the Republicans took over as the majority in the House in 1995, among the first of a list of bad things they did was to abolish the Post Office and Civil Service Committee.

Maybe they didn't like having a Committee with members with expertise on those issues. Maybe they wanted to dilute their influence. At any rate, they took those issues and folded them into the jurisdiction of the Committee on Government Reform and Oversight.

This year, I became the Ranking Member of that Committee. Unfortunately, that Committee has spent most of its time--and a lot of government money--on investigations. Not fair, impartial, well-run investigations, but unfocused, mean-spirited investigations that seem more directed to harassing the President than getting at the truth and bringing about needed reforms in the whole campaign process.

But in addition, it's given me an opportunity to be engaged in some of the postal issues that concern you. And I'd like to spend some time today talking about a few of those areas where the Congress has recently been involved.

Before I do, though, I want to talk about another area that I know concerns you greatly, as it does most members of the American public. That is the area that we call the patient bill of rights.

That is the area that we were dealing with in the House on Friday. And that is the issue that is going to continue to dominate the discussion in Washington--and probably on the campaign trail-- the rest of this year.

PATIENT BILL OF RIGHTS

The Problem

Let me give you a little background here.

We have spent the last decade dealing with two major issues in the health care arena: how to get quality health insurance coverage for all Americans, and how to keep the costs of health care under control.

You all know how hard President Clinton and the Democratic party tried to secure universal health care coverage. But a misleading, well-financed effort by big insurance companies and a lot of other special interests succeeded in killing the effort.

It still left us with the problem of high health care costs. And one of the many responses to that problem was the growth of managed care--HMOs, PPOs, all kinds of organizational structures which at their best, offered promise of more rational and organized comprehensive care, and at their worst became big profit producers for people who were happy to skim the healthy out of the system and shortchange the sick who needed services.

Now I am not someone who is interested in bashing managed care. There are good organizations, and when well run, they have made a very valuable contribution to our health care system. They have helped us control costs. And they have delivered good care.

But unfortunately, there have also been serious problems with managed care over the last few years.

People haven't been given a choice. Their employer has put them in an HMO whether they liked it or not. And then the employer has switched plans, or the plan has terminated its contract with specific doctors, and people are left without being able continue seeing their doctor--even if they were in the middle of a course of treatment.

People have found themselves in plans that refused to cover necessary care. They have not been able to see the specialists they need. They have not had their emergency room services covered.

They've been in plans where their doctor is "gagged" and can't discuss all their medical options with them. They've been in plans where doctors are penalized financially if they give too much care to their patients.

And people have felt powerless to do something to remedy the situation. The ERISA statute protects business-sponsored plans from being subject to State laws protecting consumers, requiring benefits, and allowing court remedies. Oh, you can go to court under an ERISA plan, but all you'll get if you win your case is the benefit they denied you in the first place. But by the time you get it, it may be too late.

It is obvious that we've got a real problem here. There are a lot of real situations where people need help. They need some legal rights to fight back against arbitrary practices by big insurance.

And in addition, we've got to restore people's confidence. It is not good for anyone--including legitimate HMO's--to have people believe that the bottom line for the company is more important than good health care for the patient. Profits over patients. We can't have it.

THE DEMOCRATIC PLAN

Last year, the President established an Advisory Commission on Consumer Protection and Quality to examine the problem, and help develop a solution.

Republicans and Democrats who were concerned about patients getting the care they need, and physicians being able to make medical decisions for their patients, joined together on legislation.

But the Republican leadership in both the House and the Senate made it clear that they would put every obstacle in the way. Trent Lott even called the insurance companies together to tell them to get off their you-know-what and shell out the money to defeat what he called the biggest threat since the Clinton plan.

I guess the threat was to their own pocketbooks--insurance profits and Republican campaign contributions.

They made it clear their interest in patient rights was nil.

So their opposition turned it into a defining issue between the two parties. The Democrats developed a better bill--stronger protections for patients but responsible treatment for legitimate managed care plans.

And the President ordered all the Federal agencies to take steps to put those consumer protections in place in all the programs they could--Federal employees health insurance plans, Medicare and Medicaid, veterans health care...everything they could do that didn't require legislation.

THE REPUBLICAN RESPONSE

But last Friday, we found ourselves on the House floor, acting on a Republican bill that purported to protect patients.

So what happened?

First, the Republican leadership started to read the polls. Despite all their efforts--and the money being spent to kill the bill by the insurance companies--people wanted some action.

So they went to plan B. They rushed a bill out that sounded like it did something, but which fell short in every way.

It didn't guarantee meaningful access to specialists. It didn't give people coverage of medically necessary prescription drugs left off formularies. It didn't prohibit putting financial penalties on doctors because the insurance company or HMO thinks they are giving too much care.

Even in those areas where it purported to do something, it had little hidden changes that gutted the provision.

They said they were including coverage of emergency care under the so-called prudent lay person standard. That means if a reasonable person would think they had a condition that required them to get to an emergency room, the plan must pay for it, and not stick the person with the bill. But they changed the words so that extreme pain would not be a justification for going to the emergency room. They said that if you didn't go to one of the network facilities of the HMO for your emergency care--no matter whether one was close or not--they could make you pay virtually the whole bill.

They did the same thing with privacy. They claimed they were trying to protect the privacy of medical records. But the language of the bill they introduced not only overturned current State law protections but would have allowed an individual's medical records to be SOLD and disclosed without the patient's consent. When they got caught on that, they changed it so you couldn't sell it--but you could still disclose it.

In provision after provision, they included provisions that sounded good on the surface, but turned out to be shams.

Maybe nothing was more outrageous than saying explicitly that HMO or insurance company bureaucrats could make up their own definition of medical necessity. And if a patient or doctor challenged that--the so-called independent review could only look to see if they made a decision of medical necessity as they chose to define it! It was circular: set whatever limits you want, and that's what the review will enforce. No independent medical judgment. No reasonable standard of care. Nothing.

THE WORST PROVISIONS

But they did more.

They used the bill to try to force through the House a number of their pet proposals. They set up insurance arrangements that undercut State benefit laws and consumer protections. They included their so-called malpractice reforms that simply limit the rights of patients. They even snuck in some special provisions protecting big drug companies.

And they used the cover of the bill to try to bring to the floor their proposal to include medical savings accounts, called MSAs, as an option in the Federal Employees Health Benefits program.

They did this despite the fact that MSAs erode the concept of group insurance and sharing risk. They did this in spite of the fact that they are likely to start a so-called death spiral of premiums in health plans by encouraging healthy people to get out of insured plans and gain the financial benefit of an MSA.

It is clear that MSAs benefit the healthy and wealthy. They don't help people who need to use their health insurance. They cost the government money. They cost Medicare, and they cost the FEHB program.

This change should have been considered in the Government Reform Committee. But it wasn't because they knew it wouldn't pass there. Some people on that Committee represent Federal and postal employees who participate in the FEHB plan. They know something about the program. They wouldn't support the change.

RESULT OF HOUSE CONSIDERATION

The bill was voted on right before I left Washington on Friday. The very last change the Republicans made in their version was to remove the provision for MSAs in the Federal Employees Health program.

They did that for one reason only: their votes were too close to risk losing some of their Republicans over this ill-conceived plan. But they certainly showed their intent, and I have no doubt this terrible proposal will be back again.

Non-participants in the FEHB program were not so fortunate. The Republican bill did take off all limits on the existing demonstration of MSAs in the private health insurance market.

With those changes, they have established an effective income shelter for the wealthy. And the final result for everybody else is likely to be significant increases in their health insurance premiums. By some estimates, they could double.

This is a bad bill. It barely squeaked through the House by a final vote of 216 to 210. A change of three votes and it would have failed.

I am confident that the President will never allow this travesty to become law.

POSTAL ISSUES

Before I close, I did want to go back to some specific postal issues, and talk a little bit about what is happening in those areas.

As you may know, our Government Reform Committee has jurisdiction over the postal service. But it is becoming increasingly common in this Republican congress, when they want to act on an issue, they try to go around the committee that might know something about it.

Just recently we had that experience when the House was considering the treasury/Postal appropriations bill.

The bill contained an amendment called the Northup amendment, that would have required that the United States Trade Representative, **INSTEAD OF THE U.S. POSTAL SERVICE**, negotiate international agreements for the transport and processing of international mail. In addition, the amendment would have limited the U.S. Postal Service from engaging in direct negotiations with foreign authorities to expeditiously and economically process packages that originate in the United States.

Similarly disturbing, was another Republican provision sponsored by Rep. Wicker, which prohibited the Postal Service from spending money to initiate new non-postal commercial activities or pack and send services.

I am pleased to tell you that the Northup amendment was rejected. What was adopted was a watered down provision that prohibited any funds to be used to fund Postal Service participation in the Universal Postal Union. Because Congress does not appropriate money to the Postal Service for its operations, this language was rendered meaningless. The same applies to the Wicker amendment.

Currently, the "Pack and Send" matter is before the Postal Board of Governors. Under the current rate structure, it is the Board that must act upon the recent Postal Rate Commission ruling on the Postal Service request to provide Pack and Send. A decision on this packaging service is pending.

Postal reform

Looking to the future, one of the most important issues the Government Reform Subcommittee on the Postal Service will grapple with is postal reform.

As you know, H.R. 22, the Postal Reform Act was introduced last year and revised at the very end of 1997. The chairman of the Postal Subcommittee, Representative John McHugh, a republican from New York state, is currently drafting a revised version of H.R. 22. I expect that it will be unveiled soon and that subcommittee action will occur before Congress adjourns in October.

In hearings before the Postal Subcommittee, Democratic members have expressed the view that the postal system is not broken and does not need a drastic fix. Consequently, we would view any attempt, subtle or not, to privatize the postal service or jeopardize universal mail service as problematic. Since we have yet to view a final version of postal reform legislation, this is a matter to be continued.

OSHA

Last week, the Committee reported H.R. 3725, legislation that applies the Occupational Safety and Health Act (OSHA) to the Postal Service. This bill would make the Postal Service liable for fines and penalties when OSHA violations are found.

During consideration by the Subcommittee on the Postal Service, a substitute amendment was adopted. The substitute language contained three key protections that ensure that the postal service may not: adversely affect any services because of fines or penalties levied by OSHA; increase postage rates because of fines or penalties levied by OSHA; or close or consolidate post offices based upon OSHA compliance.

H.R. 3725, provides that the postal service, but no other Federal agency, would be subject to OSHA penalties. Democrats attempted to extend full OSHA coverage to all Federal agencies. I am sure you would agree that it makes little sense to bring the postal service under full compliance, leaving other Federal workers open to death and injury because their agencies fail to give the safety and health of their workers the attention that it merits. You and I, the taxpayer, end up footing a larger bill in the form of lost work time, increased medical and death benefits, increased workers' compensation benefits and a host of other costs. Obviously this is a fight that will also continue.

Undoubtedly in the future, we will continue to face problems of changes in postal law occurring outside the Committee structure. The proper forum should be the Subcommittee on the Postal Service. We may have problems there, but at least we have some members who are knowledgeable and who care.

Unfortunately, we can expect further attacks upon the postal service to surface in the appropriations committee and on the House floor. Just last month, the House passed a resolution, H.Res. 452, which expressed the Sense of the House of Representatives that the Postal Board of Governors should reject the one-cent postage rate increase. The Board subsequently announced that the postage rate increase will not take affect until January 1999.

CONCLUSION

We have many areas of joint concern.

Whether we are talking about protecting the integrity of the postal service, the viability of a strong FEHBP, or broad protections of the rights of patients, our common interests are clear.

I know you are a concerned and articulate force. I encourage you to be vocal and active. And I look forward to working in partnership with you.

Thank you very much.